

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SEAN BARTLETT and
STEPHANIE VELASQUEZ,
as parents and next friends of
Devon Bartlett, a minor,

Plaintiffs,

vs.

No. CIV 08-43 MV/LFG

ALBUQUERQUE POLICE
DEPARTMENT, et al.,

Defendants.

REPORT AND RECOMMENDATION
RE: DISMISSAL OF CASE¹

THIS MATTER comes before the Court on a status conference held December 15, 2008. At the conference, counsel for Plaintiffs notified the Court that he has lost contact with his client Stephanie Velasquez, that she is the only witness to the events underlying the Complaint, that the minor child is now in the custody of his natural father, and that the father does not know where the mother is and he has no interest in pursuing the litigation.

No discovery has been attempted or completed in this case, and the discovery period has terminated. There has been no motion practice. Plaintiffs failed to submit their portion of the consolidated final Pretrial Order, as required in the Scheduling Order [Doc. 9], filed February 27, 2008.

Although counsel for Plaintiffs filed a motion to withdraw as counsel, his request for withdrawal was never completed, as he failed to comply with the conditions for withdrawal set by the Court.

Counsel for Plaintiff now represents that his clients have abandoned the litigation, and he

¹Within ten (10) days after a party is served with a copy of these findings and recommendations, that party may, pursuant to 28 U.S.C. § 636(b)(1), file written objections to such findings and recommendations. A party must file any objections with the Clerk of the U.S. District Court within the ten-day period allowed, if that party wants to have appellate review of the findings and recommendations. If no objections are filed, no appellate review will be allowed.

requests that the case be dismissed. Counsel for Defendant agrees that dismissal is appropriate.

Recommended Disposition

I therefore find and conclude that Plaintiffs have abandoned their claims in this matter and have no further wish to proceed with the litigation. I recommend that the case be dismissed without prejudice, for lack of prosecution.



Lorenzo F. Garcia
Chief United States Magistrate Judge